Mr. Sullivan's Obfervations.

OBSERVATIONS

UPON THE

GOVERNMENT

OF THE

UNITED STATES OF AMERICA.

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INTRODUCTION.

THERE can be no great pleaſure in writing upon a ſubject, in which there may be a great variety of opinions, ariſing from perſonal intereſts, and private hopes: but I find, that our being thrown into a new ſituation, renders it no leſs neceſſary, than it is difficult, for us to form perfect ideas of the government we are under. The ſyſtem is ſo novel, ſo complex, and intricate, that it requires more time to inveſtigate it, to ſeparate its parts, and to purſue them in their various operations and effects, than men engaged in buſineſs can generally afford. I believe, that if the people of this country viewed their political ſituation, (independent of the peace, ſecurity, and tranquillity, they now derive from it), as it really is, they would rejoice exceedingly in the proſpect of their future glory and happineſs.

But there are too many of our fellow-citizens, in the various parts of America, who ſeem contented to change their preſent political ſituation for a worſe, becauſe they conſider it as a matter that muſt happen in the natural courſe of things. They are led to reaſon in this way merely from the fate of other nations, who have gone off the great theatre of the world,

world, upon which we now exhibit ourſelves ; but theſe concluſions are illy grounded. The ancient republics loſt their freedom by their pride of conqueſts ; the pulſe of their nations beat high for military atchievements ; while our ambition is not to conquer countries, but to render ourſelves, and other nations, happy.

The wiſe man ſaid truly, " Pride goeth before a fall." The ancient republics, by inſtituting triumphs, and exhibiting the calamities and miſeries of their fellow-men, as the means of the higheſt honors to themſelves, exterminated the proper feelings of humanity. Their pride for conqueſt rendered large armies neceſſary : The leaders of their armies conſidered themſelves as the moſt deſerving part of the community ; and to wreſt from the public thoſe riches and honors which they thought to be the juſt reward of their ſkill and courage, they turned the ſwords of their legions againſt the freedom of their country, and deſtroyed it.

But Americans will deſpiſe the laurels that are reaped from the miſeries of mankind. Conqueſt will forever introduce, as it did in Greece and Italy, a thirſt for perſonal dominion, as well as inequality of riches and luxury. Theſe are quite incompatible with all ideas of civil liberty ; and the hope of conqueſt ought to be abhorred by every American.

The following Obſervations will no doubt appear laboured, and be tireſome to ſome readers at leaſt. They are principally upon the queſtion, Whether the

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ſeparate ſtates, as ſtates, are liable to be called to anſwer before any tribunal by civil proceſs? and will be very unentertaining to many; but the queſtion is very important, for in that is involved the intereſting queſtion—Whether we are an aſſemblage of republics, held together as a nation by the form of government of the United States, or one great republic, made up of divers corporations? If the latter is the caſe, it is generally agreed, that our preſent ſyſtem of government, however agreeable and happy it is, cannot be long continued.

I have made my obſervations upon this point, having in view a civil action brought by Nicholas Van Staphorſt againſt the ſtate of Maryland, in the Supreme Judicial Court of the United States, and which is now pending in that court.

If any of my principles, or reaſonings, are wrong, the refutation of them may throw light on a ſubject of great conſequence, and be of ſervice to the country. I ſhall be ready to acknowledge any errors, when candidly expoſed by an open writer, becauſe my ſole aim is, to promote the public intereſt. I do not expect to write upon a ſubject, where ſo many men may feel a perſonal intereſt, and have their viſionary ſchemes croſſed, without receiving perſonal abuſe; but this can give no degree of pain, or uneaſineſs: if the moments I employ, while others are wrapt in ſleep, or amuſement, may be made uſeful to my fellow-citizens, it will give me a degree of pleaſure, which will fully compenſate me for my labour.

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The principles which are arranged in the following pages, may not be worth the attention of men well verſed in governmental concerns; but they are thrown upon paper, with an ardent wiſh to give light to the body of citizens which compoſe our republic.

OBSERVATIONS.

OBSERVATIONS, &c.

THAT the earth would be but a ſtage of murders, rapine, and diſtreſs, without civil government, has been agreed by all men, in all ages of the world.

That there is a preference due to one form of government above another is well eſtabliſhed by the ſober and united opinion of the enlightened part of mankind.

That form of government, which will beſt ſecure the lives and property of the ſubjects of it, and at the ſame time ſecure the people againſt the ambitious and unjuſt claims of their rulers, is conſidered as the one moſt highly to be prized. We find from hiſtory, that ſuch a form of government as will completely effect theſe important purpoſes has been generally ſought after; and ſince our imperfect ſtate does not allow us this bleſſing in its full extent, we are to exert ourſelves to eſtabliſh as good a government as we are capable of ſupporting.

The maxim adopted by Mr. Pope, and others, who never thought ſoberly upon the ſubject, "That the government which is beſt adminiſtered, is beſt," has done great injury to the liberties of mankind. It is a maxim which ſerves as an apology for not thinking, and it has no foundation in nature or politics; unleſs by this expreſſion they mean, that a bad

form of government well adminiſtered, gives more eaſe for the preſent moment, than a good one illy adminiſtered. But there is no ſecurity for the good adminiſtration of a bad government; unleſs we are to ſuppoſe that the adminiſtrators of it are perfect, and raiſed above the reach of the paſſions and prejudices, to which other men are liable. Whenever ſuch rulers can be found, there can be no neceſſity of forms of government, or declarations of rights. Government is founded in human nature; the imperfect ſtate of the human race, the paſſions and prejudices, to which we are all liable, render a coercive, aſſociated power neceſſary to our preſervation: And when a delegation of authority is made to one or more of our fellow-men, in order to reſtrain theſe paſſions and prejudices, and to prevent their dreadful effects, the ſame reaſons which render this delegation neceſſary, as ſtrongly urge us to raiſe barriers againſt the abuſe of it by thoſe who hold the civil power.

Nature has drawn the line between a free and an arbitrary government. All free governments are founded in the voluntary compact, and ſupported by the free aſſociation of the body of the people. But in an arbitrary government, the rulers generally claim their power from inheritance, and always claim an eſtate in their authority, independent of the people. This claim muſt have its foundation in conqueſt, and ſuch rulers conſider themſelves as conquerors, or the repreſentatives of conquerors, and the people as their captives. This kind of government is always ſupported by purchaſing one part of the people, to overawe the other; or in other words, by keeping up ſtanding armies to hold the people in captivity. Where one man is born a ruler, others muſt be born ſlaves. When a people thus ſituated are boaſting of their liberties, they do not diſtinguiſh between freedom, and the uſe of privileges derived from the grace

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of their conqueror, and they are very much like a maniac in an iron cage, proclaiming himſelf a king, and a prince. I have ſeen a madman, chained with a ſhort chain to the middle of the floor in a large houſe, boaſting that he was quite free, and could ſtep out when he pleaſed, and drag the building after his footſteps.

I can eaſily make a diſtinction between being born a ſubject, and being born a ſlave. Every one who is born in a country where civil government is eſtabliſhed, is born ſubject to the laws; he has the ſtrength and wiſdom of the community to provide for, and to protect him in his infancy; and he owes allegiance to the laws, which, in a free ſtate, are but the collected voice of the ſociety. Where one man is born with a right to govern others, and this right is an inheritable eſtate, he has property in the people; he is born to rule over them, and they are his by inheritable dominion. It is true, that if all the people would unite in overthrowing ſo unjuſtifiable a dominion, it would eaſily be effected; but where this kind of government is eſtabliſhed, the dread of anarchy in ſome, the love of office in others, the hope of honours and emoluments in many, and the fear of ill ſucceſs in the greater part, generally prevent ſuch attempts, until the whole people groan under the abuſe of power, and then their ſufferings frequently unite them in acts of oppoſition. This ſtatement once was, and we hope yet is quite placid to the feelings of Americans: but ſome part of mankind, at leaſt, are ſubject to change. Men are too apt to form their opinion of politics and religion from their particular ſituations; therefore the ſureſt way to keep them right in politics, is to have ſuch a form of government as will render it for their intereſt to be ſo. It is much eaſier to carry on a converſation by repeating what great men ſay reſpecting governmental matters, than by inveſtigating ſuch ſubjects, ſo as to have ideas of

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our own. Upon this retail plan of proceeding, when one man expreſſes his ſatisfaction upon the happy ſtate of his country, another will reply, "*Take care of* "*jealouſy*, do not ſay any thing to call up *a ſpirit of* "*jealouſy*." This man is quite innocent in his intentions, for they are nothing more than to fill up a gap in converſation, with a ſaying of his friend, whom he conſiders as a firſt politician.

Jealouſy is an affection excited in the mind, either by falſe appearances, or by giving a falſe conſtruction to facts. It is a deadly, uncomfortable paſſion: but it does not follow from thence, that an enlightened and diſcerning people ſhall not write and ſpeak upon the principles of their own government, and on the meaſures of their own rulers. An idea ſo oppoſite to the ſpirit of liberty, would give good cauſe of jealouſy.

It has lately become very faſhionable with ſome people in this country, to foretell a change in our governments; they tell us, with a good deal of gravity, that the people are not capable of holding a free government long, and that when our great republic ſhall be encreaſed to a certain meaſure of men and territory, the repreſentation in the moſt popular branch, will be too numerous for one aſſembly, and that a ſmaller number than one to thirty thouſand will not be able to repreſent the feelings and intereſts of their conſtituents. This, to be ſure, would be a great calamity; but the remedy propoſed by theſe politicians is ſtill greater. They believe that a king, lords and commons will cure all the difficulties; That is, that three hundred men choſen by the people, from among themſelves, will not know their ſituation and intereſt; but if one hundred of the ſame men are taken and made lords, they will have all the wiſdom and knowledge that can poſſibly be neceſſary: And what is more extraordinary ſtill, is, that the wiſdom with which they ſhall be inſpired, by being made noble-

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men, will deſcend forever to their male heirs, ſo that the people may ſafely give up all concern about their civil and political ſituation to the unerring hands of theſe wiſe-born, hereditary rulers.

The poſition of theſe politicians, ſo far as it reſpects the difficulty of a repreſentation too numerous for one branch, is well founded, upon their plan; but the remedy they propoſe, is deſtructive to all civil liberty. If there ſhould ever be a time, when all the concerns of this great people ſhould be thrown into the hands of one legiſlature, there cannot be a repreſentation ſufficiently informed of their ſituation and circumſtances to do them juſtice, and of courſe the people will become reſtleſs and uneaſy: Elections will become very intereſting, important, and troubleſome: Different methods will be purſued by different men to ſecure the rights and intereſts of the people, as well as to aſſure private property to the owner; and we may be finally pointed to the remedy which has been adopted, under ſuch calamities, by other countries, to give up our liberties for a ſtate of ſlavery, which will take us out of thoſe troubles, give us a momentary eaſe, and make our poſterity ſlaves by inheritance. But perhaps it will at that inauſpicious day (which God forbid ſhould ever arrive) be diſcerned, that a diviſion of the overgrown republic into two different, independent commonwealths, may be a more eligible remedy than can be obtained by a ſervile adoption of the Britiſh conſtitution.

Could we underſtand our preſent political ſituation, as a nation, and as ſeparate ſtates; could we carefully and impartially examine it, in all its nice and regular forms; could we ſee the beautiful connexion of all the healthy and vigorous parts, which compoſe the unprecedented and glorious ſyſtem of government, which Heaven has ſeen fit to beſtow upon us, we ſhould view the man, who would dare to predict a change of it, as to its eſſential principles,

as our moſt implacable and inveterate enemy. We ſhould hold him as the common enemy of mankind; becauſe, unleſs the enlightened people of United America can ſupport the dignity of freemen, and enjoy the bleſſings of a free government, there is no hope left for the human race.

The ſyſtems of government, adopted by the people of the United States, will forever, while they are ſupported, prevent the evils which are predicted from a numerous and overgrown repreſentation. We have ſo many different ſovereign ſtates, which are united for great national purpoſes, that the people can be fully repreſented without having too many repreſentatives in any one aſſembly.

The great buſineſs of civil government is the external defence of the commonwealth or kingdom againſt other powers, and the internal peace and ſafety of the people who compoſe it.

As all power, in a free government, is derived from the people, who, by their voluntary aſſociation, delegate it, they will veſt it as they pleaſe. They may give one part of the buſineſs to one body of men, and another part to another. This will appear eaſy, when we examine the line which divides the authority of the general government from thoſe of the ſeveral ſtates.

The people had delegated to the governments of the ſeveral ſtates, all the powers which they choſe to veſt in their civil rulers; but in the year 1787, they reviſed the ſyſtems, and recalled certain powers which related to the concerns of the ſtates with foreign nations, and provided one government to exerciſe this authority for all the people of all the ſtates. To this they added a new power, which did not exiſt in either ſtate before, that is, the authority to decide controverſies between the ſeveral ſtates. And moreover, to all this they added the powers of directing the commercial concerns of all the ſtates with each other.

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Upon a fair examination of theſe powers, as they are given to the general government, it will appear, that a compliance with the requiſitions of them may be procured in a manner quite compatible with each ſtate's retaining a ſovereignty; that ſuch ſovereignty is neceſſary to prevent the numerous repreſentation which is ſo oſtenſibly dreaded, and that conſequently the great evils of a change of government will be prevented, by preſerving the ſovereignty of the ſtates, as eſtabliſhed and guarantied by the Conſtitution of the federal government.

The Conſtitution provides, that Congreſs ſhall have the powers "to declare war, to coin money, "to eſtabliſh poſt-offices, to promote the progreſs "of ſcience, and uſeful arts, to conſtitute tribunals, "to lay and collect taxes, duties, impoſts, and ex- "ciſes, to regulate commerce with foreign nations, "and among the ſtates, and to eſtabliſh a rule of "naturalization." Theſe are all the powers given to Congreſs beſides the incidental, correſpondent powers, ſome of which are expreſſed in the Conſtitution, and others, though not expreſſed, are implied. This buſineſs, thus generally ſtated, may appear not to be ſo extenſive and important, as ſome may expect the concerns of a great nation to appear; but when it is examined, it is ſeen to branch itſelf out into a vaſt variety of very important ſyſtems, with commiſſions, offices, and departments, demanding the attention and labours of the politician, the civilian, the farmer, the ſoldier, the ſeaman, the merchant, the ſcholar, and the artiſt; and as our nation extends its connexions, encreaſes its commerce, multiplies its numbers, and encourages the arts, theſe will extend in proportion.

In the authority of declaring war is included that of making peace, and of ſupporting the war when declared. The Congreſs for this purpoſe has the power "to make rules concerning captures on land

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" and water, to raiſe and ſupport armies, to provide " and maintain a navy, to provide for organizing and " diſciplining the militia, and for governing it, when " employed in the ſervice of the United States."

In order to promote the progreſs of ſcience and of the arts, they have the power of giving to authors and inventors, an excluſive right to their works and inventions. As they are to coin money, they are to have power to eſtabliſh the ſtandard, and to puniſh the counterfeiting of it.

As they are to regulate commerce, make peace, and declare war, the power of puniſhing felonies and piracies on the high ſeas, is abſolutely neceſſary to the execution of theſe. The power of borrowing money renders that of puniſhing the counterfeiting of public ſecurities neceſſary: And theſe include the idea of eſtabliſhing tribunals of juſtice to apply their laws, and the whole ſyſtem demands the power of levying money upon the people and property of the Union.

The Congreſs having power to declare war excludes the idea of any particular ſtate having that authority. Should one of the ſtates undertake to do it, or to continue a war after Congreſs had made peace, the government of the United States, or any other government could not puniſh the ſtate as a ſtate for doing it. Even a corporation will not be puniſhed as ſuch, otherwiſe than by a diſfranchiſement of its privileges, which carries with it the idea of its having derived its powers from, and holding them under that government which can deſtroy its exiſtence. But if any of the members or citizens of a ſtate, ſhall, in purſuance of ſuch declaration, ſlay a ſubject of a foreign prince, within the United States, it will be murder, and puniſhed by the tribunals of their government as ſuch; if on the high ſeas, it will be piracy, and puniſhed as ſuch, either in America, or in the kingdom whoſe ſubject ſhall be ſlain; a

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repriſal made by ſuch authority on land would be treſpaſs, on the ſeas it would be piracy. When Congreſs declares war, the ſtates, as ſtates, having nothing to do with the proſecution of it, Congreſs alone is to raiſe armies, and to call out the militia, who are puniſhable as individuals, if they, on ſuch a call, ſhall diſobey the laws of Congreſs. One inconvenience attends the calling out the militia, which poſſibly may give the ſtates power to check the meaſures of Congreſs; they are to appoint the officers of their own militia, which, it is poſſible, they may neglect to do in time of war; but I ſhould conceive, if that ſhould ever happen, that Congreſs may appoint a command to each corps, while in actual ſervice; becauſe, otherwiſe, the power of calling out the militia may become nugatory; and where power is given to act, all neceſſary correſpondent powers are implied in the grant.

Congreſs has power to coin money, and to eſtabliſh the value of it. If a ſtate ſhould paſs an act to coin money, ſuch act would do neither good nor hurt, unleſs there was an attempt to carry it into execution; and the man who ſhould attempt, by ſuch pretence of authority, to coin money, would be amenable to the tribunals of the United States, in the ſame manner as he would be, if no ſuch law had been made. Should one of the ſtates reſolve to ſeparate itſelf from the Union, Congreſs could do nothing with it as a ſtate, but would proceed in the exerciſe of the general government of the citizens, in the ſame manner as though ſuch reſolution had never exiſted; and if any individuals of ſuch ſtate ſhould oppoſe the government, they would be puniſhed for treaſon, and treated in all reſpects as though ſuch reſolve had never been paſſed. The levying money by taxes, duties, impoſts and exciſes are perſonal matters; the individuals of the United States, and their property, are acted upon in theſe meaſures, and the ſeveral ſtates

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are out of the queſtion. The regulating commerce with foreign nations ſtands on the ſame footing. If Congreſs make regulations, they have power to puniſh each individual who ſhall violate them.

That of eſtabliſhing an uniform rule of naturalization, appears to me to be the moſt unimportant of their powers. Aliens have the ſame privileges here as citizens, excepting as to the purchaſe and inheritance of real eſtates; but this matter of purchaſe and inheritance reſts with each ſtate, and they may eſtabliſh a tenure of real property, which will enable aliens to purchaſe and inherit equally with citizens.

There are other proviſions which appear as directions to carrying theſe into execution, and others again dividing the legiſlative, executive and judicial departments, and reſtricting Congreſs and the ſtates, from interfering with the authorities given to them ſeparately by the people. In all theſe, there is no control of Congreſs over the ſtates, as ſtates; but the acts of the ſeveral ſtates, which ſhall infringe the rights and authorities of Congreſs, are rendered idle and void. The government affects the people in their individual capacity, and does not extend to the ſtates as ſuch.

The powers and authorities above-mentioned, with the correſpondent executive and judicial authorities, are all which the people have delegated to the government of the United States. Theſe are all very intereſting and important; without ſome of them, America could not be a nation; and without the others, the United States could not ſupport a national character, obtain that faith and confidence which will render them reſpectable on the great theatre of the earth, or be able to defend themſelves againſt the invaſion of foreign enemies. Theſe powers of government ought to be very dear to all the people. We ſhould very ſoon be miſerable without ſuch a union of power for theſe purpoſes. The exerciſe of theſe

authorities

authorities will fix our character as a nation among the nations of the earth, and therefore he who loves his country will do his utmoſt to ſupport the officers of the general government in the executing them. This ſyſtem of general government renders us one community for all theſe purpoſes, and forms our portrait in the eyes of other nations.

But there are many matters to be tranſacted in each of the governments, which are to be effected by a ſovereign authority, and to which the powers above-mentioned do not extend.

The crime of treaſon againſt a particular ſtate, murder, and all felonies, and other crimes committed within a ſtate, which are not againſt the laws made by Congreſs by virtue of the above-mentioned powers, are to be puniſhed by the ſovereign authority of the ſeveral ſtates, and in which Congreſs have no manner of control; in which the voice of the government of the United States cannot be heard, and in which that ſovereignty has no concern. The laws alſo reſpecting the transferring of real eſtate, and for regulating and guiding its deſcent; for the diſtribution of perſonal property, and for regulating all internal commerce, are made and conducted by the ſeveral ſtates, independent of the general government.

The levying taxes upon the people, for the exigencies of each ſtate, and the eſtabliſhment of tribunals of juſtice for deciding matters between the citizens of the ſame ſtate, where treaties, or the laws of the United States, are not in queſtion, is within the uncontrolable power of each ſtate.

Theſe powers are not ſo important in the eye of other nations, but they are of very great importance to the people; and without their being executed, the general government cannot exiſt according to its preſent principles.

There is room for the utmoſt exertions of the patriot, the ſtateſman, the lawyer, and the artiſt, to conduct,

duct, to model and contrive the buſineſs to be done by the ſeveral ſtates for their people; and what is more, in proportion as the reſpectability of the particular ſtates ſhall be encreaſed, the glory of the Union will riſe. But if the citizens of the particular ſtates ſhall ſuffer their governments to ſink into diſrepute; if they do not ſo ſupport them as to have confidence in thoſe who are appointed to adminiſter them; if they do not give their officers ſuch a ſupport as will call their men of ability into office, and attach them to their ſervice, the people will ſoon turn their attention to the general government; all confidence will run there, as the waters to the ſea; all buſineſs will of courſe be thrown into the hands of that government; the ſtates will loſe their importance; and the crowd of buſineſs there will neceſſarily lead to a change of government. This will not only be wrong in politics, but it will be immoral.

We have ſeen mankind unhappy and miſerable in the variety of governments which they have been under. A ſmall republic is liable to factions and tumults, and a great republic becomes unwieldy and inſupportable; but we are called to make a new experiment, and it is our duty to try it with patience and perſeverance.

This may lead to a conſideration of the nature of ſovereignty, and the diſpoſition of it in the ſyſtems which form the ſeveral governments in United America.

Every man, in a ſtate of nature, has an uncontrolable right to diſpoſe of his perſon and poſſeſſions, to redreſs his own wrongs, and to act as he pleaſes. Though he is accountable to God, yet there is no earthly tribunal which can claim a civil right to reſtrain or to puniſh him. This perſonal, natural ſovereignty may be taken from us by force, or it may be yielded by us upon a compact; if it is taken from us by force, we are conſidered as captives and vaſſals,

under

under no tie but that of fear; and having a juſt right to emancipate ourſelves, whenever we can effect it; and to attempt it, whenever we dare to riſque the conflict. If we fail in the attempt, we are rebels, and meet the halter; if we are ſucceſsful, we are patriots and heroes, and the whole world bows to the ſublimity of our virtue.

We have, in the late ages of the world, ſo few inſtances of a people reſigning, by voluntary compact, their natural ſovereignty, that examples of it are not eaſy to be produced. We know that nearly all the governments, which now exiſt in Europe, are founded in conqueſt, and that all the boaſted freedom, which any of them maintain, has been obtained by purchaſe, or wreſted, by hard ſtruggles, from the conqueror, or from his ſucceſſors. The hiſtory of thoſe firſt aſſociations, on which the ancient governments were eventually founded, are too obſcure to give much aid in this inquiry. One principle, however, is very clear, that is, that when a people ſurrender their natural ſovereignty, the authority derived from them may be limited and reſtricted in the compact of ceſſion; but where the ſovereignty is taken from them by force, all the privileges they enjoy are dependent upon the grace of their conqueror, or of him who ſucceeds him in the tyranny.

This ſovereignty can never be inveſted by many people in one man, or in a few men, in any other way than by forming a civil, coercive power; for it is the throwing this principle, held by all the people individually, into the hands of one or more delegates, that forms a government, and raiſes an active force to the uſe of all; or a ſupreme executive authority, to be exerciſed over the whole.

When this power is thus given by, or wreſted from the people, it ceaſes to be a natural, and becomes a political principle, and in whatever form it may appear, it is derived from, and ſupported by the body of the people.

When

When Philip of Macedon had enſlaved his own, and the neighbouring ſtates of Greece, and had ſubdued nearly all thoſe parts of the world, which were within his knowledge, he held the ſovereignty of them all by right of conqueſt. Here the ſovereignty was wreſted from the people, and held as an unlimited, political principle by the conqueror.

When the Roman people became conquerors of the known world, the ſenate exerciſed the ſovereignty of the vaſt empire, as the ſupreme executive authority of the ſtate, but an appeal laid to the great body of the Roman people, in all caſes, who decided the queſtion in their large, tumultuous meetings at Rome. Here was no political ſovereignty veſted any where, or in any perſon ; the people retained their ſovereignty, and finally loſt their liberties, by a caution unſuited to the extent of their republic.

Sovereignty muſt, in its nature, be abſolute and uncontrolable by any civil authority, with reſpect to the objects to which it extends. A ſubordinate ſovereignty is nonſenſe : A ſubordinate, uncontrolable power is a contradiction in terms : But there may be a political ſovereignty, limited as to the objects of its extenſion : It may extend to ſome things, and not to others, or be veſted for ſome purpoſes, and not for others.

When we ſpeak of a mixed monarchy, we do not mean, that there is a mixture of ſovereign and ſubordinate powers inveſted in the ſame man, but that the ſovereign power, either by compact made between the conqueror and the people conquered, or by the mode of delegating and fixing the ſupreme executive authority, one perſon or one body poſſeſſes a part of it, as it applies to the government of particular ſubjects, and another man, or body of men, poſſeſſes the other part, as it applies to other ſubjects. Thus, in England, the king exerciſes a part of the political ſovereignty, as ſupreme executive officer; his perſon,

perſon, by the conſtitution, is ſacred, ſo that it cannot be arreſted; he grants pardons, appoints officers, and creates dignities, without control; proclaims war, and makes peace, at his pleaſure. In all theſe inſtances, he exerciſes a ſovereign power; but he cannot make a law to diſpoſe of the lives or property of his ſubjects, or decide a controverſy. The ſovereign legiſlative power, for theſe purpoſes, is inveſted in the parliament, who make laws and eſtabliſh tribunals to carry them into execution.

When I ſpeak of an abſolute ſovereignty, I do not mean to infer, that there can be any ſuch thing as a ſovereignty which is not abſolute as to the ſubjects within its extenſion. The expreſſion is not accurate, unleſs we take it with the meaning which uſe has appropriated to it. The emperor of the Muſſelman empire is an abſolute ſovereign; that is, according to my idea of it, he has an uncontrolable right to govern his people according to his own pleaſure. In this ſenſe, the word abſolute is uſed to convey the ſame idea as the word univerſal.

All ſovereign authority being originally in the people at large, they may inveſt the exerciſe of it in whom they pleaſe; but where the power delegated by them is ſubordinate, or controlable by any other delegated civil power, it is not a ſovereign power. In one ſenſe, there is no ſupreme power but what the people themſelves hold. When I ſpeak of an abſolute ſovereignty, I mean a power over which there is no control by any eſtabliſhed civil authority.

I will now aſk the attention of thoſe who may read theſe obſervations, while I conſider, how far the ſeveral ſtates in United America are ſovereign ſtates.

It will not be neceſſary to make a particular inquiry into the mode of government adopted by the ſeveral ſtates, when they coloniſed from the mother country; but this may be ſaid, that they all poſſeſſed ſovereign powers, independent of the country from whom

whom they had proceeded. They were afterwards modeled by charters and otherwiſe, into ſuch forms as their neceſſity, ariſing from their danger and the claim of the crown over them as Britiſh ſubjects, obliged them to.

Whatever their condition had been before, by an act of Congreſs, paſſed on the fourth day of July, 1776, and ratified by the people, they became free, ſovereign, and independent ſtates. Eleven of them, in the exerciſe of that ſovereignty, formed conſtitutions of civil government, thereby delegating a political ſovereignty to ſuch men, and bodies of men, as the people choſe to entruſt with it. Two of them had governments tolerably well ſuited to their circumſtances under the revolution.

By an act of confederation, entered into on the fifteenth day of November, 1777, it was ſtipulated, that each ſtate ſhould retain its ſovereignty and independence. This confederation was in the nature of any other treaty between nations, who were equally independent of each other. Thus they aſſociated on the ſame principles as individuals may combine their powers in a ſtate of nature, for their common defence and ſafety, without any other obligation to the performance of the duty, reſulting from their compact, than that of honour and intereſt; and with no coercive authority in their confederation to compel an individual citizen to the performance of any act of duty.

In this inefficient ſituation the ſtates remained until the year 1787, liable to diſcord and controverſy among themſelves, as well as incapable of negociating with, or defending themſelves againſt other powers.

A convention was appointed to be held at Philadelphia, for inſtituting ſuch meaſures as would have a tendency to ſtrengthen the Union, and to promote the happineſs of the confederated powers.

In the addreſs of that body to the Preſident of the then

then Congreſs, they ſay, " The friends of our coun-
" try have long ſeen and deſired, that the powers of
" making war, peace and treaties; and of levying
" money; and regulating commerce, and the corre-
" pondent executive and judicial authorities, ſhould
" be fully veſted in the general government of the
" Union." Theſe are all the powers mentioned in the addreſs, as intended to be comprehended in the ſyſtem of government then propoſed to the conſideration of the people. We are to believe, that the Convention were explicit, open and undiſguiſed in their addreſs, and unequivocal in their language. To ſuppoſe any thing elſe, would be to charge them with chicane and cunning. They further ſay, that " It is
" obviouſly impracticable, in the federal government
" of theſe ſtates, to ſecure all the rights of independ-
" ent ſovereignties to each, and yet provide for the
" ſafety and intereſt of all. Individuals in ſociety
" muſt give up a part of their liberty, to preſerve the
" reſt. The magnitude of the ſacrifice depends, as
" well on the ſituation and circumſtances, as on the
" object to be obtained. It is at all times difficult
" to draw, with preciſion, the line between theſe rights
" which muſt be ſurrendered, and thoſe which may
" be reſerved." Here they repreſent the ſeveral ſtates, as they really were, ſeparate, ſovereign powers, having no civil relation to each other, or any other connection, than what might reſult from a voluntary, uncompulſory compact.

In the third clauſe of the above-mentioned addreſs, they ſay, " In all our deliberations on this ſubject,
" we kept ſteadily in our view, that which appears to
" us the greateſt intereſt of every true American, *the*
" *conſolidation of our Union.*" This mode of expreſſion alludes to the forcing metals together, until their ſeparate textures are loſt in one common maſs. There was a union by the confederation before, but this new ſyſtem was intended to conſolidate it; and by run-

ning it into one maſs, to render it inſeparable and permanent. By this mode of expreſſion, the Convention had no idea of a conſolidation of all the governments into one; they expreſſed no wiſh, that, inſtead of a conſolidation of the Union, there ſhould be a conſolidation of the ſtates united. They have been explicit, and have told the people what their intention was. Nevertheleſs, if each ſtate does not retain its ſovereignty, as to ſome things, and over ſome ſubjects, there is no union of ſeveral exiſting ſtates, but one entire government over the whole, for all purpoſes, from the ſouth line of Georgia to the north line of Maſſachuſetts.

We are not to ſuppoſe, that the language uſed in the ſyſtem under conſideration has a meaning different from what has been appropriated to it for ages and centuries paſt. The word *ſtate* has always been taken to convey the idea of an empire, kingdom or commonwealth poſſeſſing ſovereign powers. Such were the ancient ſtates of Italy and Greece; and ſo late as the reign of Henry the eighth of England, that kingdom was called a ſtate, and the king *his highneſs*. Sometimes the word ſtate is uſed to convey the idea of territory under a particular form of ſovereign power; but when applied to the powers of government, it has always been uſed to expreſs a ſovereign, independent authority.

In the preamble to the frame of government it is ſaid, "We the people of the United States, in order "to form a more perfect union." This was a union of individuals, by which the ſtates are deprived of the power to act as ſovereign ſtates in certain matters, alike intereſting to them all: And while theſe national concerns are left to Congreſs, the ſtates retain their exiſtence as individual ſtates. This delegation of the people to the general government unites their power, for their common defence and ſafety.

In the article making general regulations, it is ſtipulated,

ſtipulated, that " The United States ſhall guaranty " to every ſtate in the Union, a republican form of " government, and ſhall protect them againſt inva- " ſion, and, on application of the legiſlature or execu- " tive, againſt domeſtic violence." If the word ſtate does not retain its uſual and ancient meaning, the other expreſſions in this clauſe have alſo aſſumed new ideas. The powers united by this act of the people are ſtill to have the appellation of ſtates, and ſtill to have a republican form of government. For a mere corporation, poſſeſſing no ſovereign power, to have a republican form of government, would be as great a novelty in the world as it would be, for a mere corporation to have a legiſlative and executive. A city may have a form of police, and a power of making by-laws, in all caſes ſubordinate to, and controlable by the laws of the government under which it holds its exiſtence. But there is no mean between a corporation and a ſovereign government: Every body-politic muſt, in its nature, be a ſovereign power or a mere corporation, as every man, in a civil ſociety, muſt be a ſovereign or a ſubject.

It is further ſtipulated, that " the citizens of each " ſtate ſhall be entitled to all the privileges and im- " munities of citizens in the ſeveral ſtates." If all the ſtates were, by the adoption of the federal government, conſolidated into one ſtate, there could be no need of a proviſion of this kind. There is, in the ſame ſyſtem, a proviſion which, if properly underſtood, will afford great light in the conſtruction of the Conſtitution.

" A perſon charged with treaſon, felony, or other " crime, who ſhall flee from juſtice, and be found in " any other ſtate, ſhall, on demand of the executive au- " thority of the ſtate from which he fled, be delivered " up, to be removed to the ſtate having juriſdiction " of the crime." One of the crimes here mentioned is treaſon: we all know that there can be no treaſon where

where there is no ſovereign power to commit it againſt. Treaſon is a violation of the duties of allegiance to an eſtabliſhed government, holding the exerciſe of ſovereign power; and there can be no ſuch crime, unleſs it is committed againſt ſuch authority. It is not ſaid againſt whom this treaſon is to be committed, whether againſt one ſtate, or againſt the Union; but yet, as the traitor is to "be delivered up, to be "removed to the ſtate having juriſdiction of the "crime," it is very clear that the treaſon, here ſpoken of, is a crime againſt the ſeparate ſtates, in their individual capacity. And purſuant to this idea, the courts, in all the ſtates, charge the grand jurors, ſummoned on behalf of the particular ſtates, to preſent all treaſons done and committed againſt them. In the commonwealth of Maſſachuſetts, the governor, ſenators, counſellors, and repreſentatives, and all other officers, ſwear that "the commonwealth of Maſſa-"chuſetts is, and of right ought to be, a free, ſove-"reign and independent ſtate." It is true that it is added, "that no other ſtate has any power, or pre-"eminence, excepting what is, or may be veſted in "Congreſs:" But this does not relate to the ſovereignty of the commonwealth.

Another clauſe in the Conſtitution provides, that Congreſs ſhall exerciſe excluſive legiſlation, in all caſes, within the ten-miles ſquare, which ſhall be taken as the ſeat of government. This was neceſſary, in order to preſerve the dignity and authority of the general government. But if the ſtates were formed, by this ſyſtem, into one entire government, then the ſupreme legiſlative authority extends alike to every part of United America; and though the particular ſtates may have a ſubordinate legiſlative power, yet all muſt be under the controling ſovereignty of the United States in all things; and if ſo, the above conſtituted authority is quite unneceſſary.

Nothing could give greater ſatisfaction to thoſe who

who had been engaged in effecting the revolution, and who delight in the independency of America, than to ſee a ſyſtem of government which would firmly and indiſſolubly unite all the ſtates in the ſupport of thoſe great and intereſting principles which they had contended for.

But where a people had been taught, for a long courſe of years, to be jealous of power; where a government had been recently overthrown by the people, under the expectation of changing a diſtant and tyrannical government for a familiar, popular and eaſy one, great caution and jealouſy were naturally to be expected. On the other hand, the dreadful apprehenſions of a diſunion of, and controverſy among the ſtates; the mortification of our national pride, upon ſeeing that we muſt ſoon loſe all confidence and credit with other nations; the deſtruction of our commerce, for want of a general, ſyſtematical regulation; the diſtreſs of public creditors, who had parted with their property to aid their country in the day of her danger; the injuſtice which had ariſen from paper money and tender acts; and the alarms ariſing from inſurrections, urged all to adopt ſome meaſure to ſecure them againſt ſuch inſupportable calamities. From theſe conſiderations, the people appeared generally willing to part with every thing, but the exiſtence of the ſtates, as ſeparate ſtates.

The Convention did not propoſe any thing more than a ceſſion of a part of that ſovereign power, which the people had given to the ſeveral ſtates; nor did they propoſe that the general government ſhould accept this of the ſtates, but that the people ſhould be repreſented in conventions, in their natural capacity, where there could be no magiſtracy, rank, or preeminence, and there recal a part of the ſovereign power they had veſted in their ſeveral governments, and by the voluntary conſent of a majority of individuals, in all the ſtates, veſt thoſe ſovereign powers,

ers, ſo withdrawn, in one government over all the PEOPLE of all America, for certain particular purpoſes.

The ſyſtem propoſed, contained the natural diviſion of legiſlative, executive and judicial powers. The judicial power is, in all governments, the moſt operative upon, and moſt familiar to the people; and while, in this ſituation, all wiſhed for a union, and no one pretended to be in favour of a conſolidation, there were great difficulties, in the minds of many, reſpecting the conſtruction of the judiciary powers contained in the ſyſtem then offered to the public. There were, however, men of learning and ingenuity, who gave that part of the Conſtitution a conſtruction which made many eaſy with it, and which I believe to be quite conſiſtent with truth and fairneſs.

It ſeemed then to be agreed, that the ſtates, as ſtates, were not liable to the civil proceſs of the ſupreme judicial of the Union; and no one pretended to ſay, that if the ſtates were ſo liable, there was not a conſolidation of all the governments into one. There can be nothing, I think, more abſurd and ridiculous than to ſuppoſe the governments exiſting as ſeparate governments, and yet to ſuppoſe them amenable before a civil tribunal, of any kind, upon mean proceſs. Since the eſtabliſhment of the general government, and in the preſent year, there has been an action brought, by Jacob and Nicholas Van Staphorſt, againſt the ſtate of Maryland. The action is entered in the ſupreme judicial court of the United States of America. The writ appears to have been directed to, and ſerved by the marſhal of the diſtrict of Maryland upon the governor, executive council and attorney-general of that ſtate. The action, as appears by the record, ſtands continued from February term, 1791, to Auguſt term, in the ſame year, with an order, that the ſtate ſhould file their plea within two months from February, or have judgment made up againſt

againſt them as of that term. A plea is filed to the action in common form, that the ſtate never promiſed.

It is ſaid, that the legiſlature of Maryland, by a reſolve, or in ſome other way, conſented to the bringing this ſuit in that court; but this does not appear upon the record. Be that as it may, the ſtate of Maryland can, by no means, give a juriſdiction to the ſupreme court of the United States, which that court does not poſſeſs by the conſtitution of their power from the people of all the ſtates. They might refer their diſpute, by arbitration, to the honourable gentlemen who fill that bench, or to any others; but they cannot, if they exiſt as a ſtate, find a power lodged any where, to compel a performance of the award on their part. If they could not agree with their creditor, as to the ſum due, they might have reſolved, that their treaſurer ſhould pay any ſuch ſum as ſhould be found due by ſuch and ſuch men. But agreeing to have this ſuit produced againſt the ſtate, as a ſtate, carries with it an idea, that when they know how much they owe, and ſhall be able to pay it, yet they ſhall not be willing to do it; but will wait for ſome perſon or other to compel them.

The ſtate of Maryland will pardon me while I intermeddle with their buſineſs, becauſe, although this meaſure may only be a method which they have adopted to urge them to be honeſt, yet it eſtabliſhes a precedent which may prove injurious to all the ſtates, and therefore every citizen has a right to be heard upon the ſubject.

All the authority which the ſupreme judicial court can poſſibly have muſt be derived from the government of the United States, and all the acts and reſolves of the particular ſtates, which may be made for *enlarging* or *abridging* their juriſdiction, are no more to the purpoſe than the doings of any private man; and, therefore, if the court ſhould hold cognizance of this plea, they muſt do it by virtue of the Conſtitution;

tion ; and if they call upon that ſtate to anſwer, they have the ſame right to call upon all the others. The danger of eſtabliſhing precedents for power has been univerſally acknowledged, but generally when the time for a remedy has been gone out of reach.

The Conſtitution provided for a ſupreme judicial court, and gave Congreſs power to eſtabliſh inferior tribunals ; but the mode of proceſs was left as the ſubject of legiſlative authority. Antecedent to an act of Congreſs upon that ſubject, the ſupreme judicial court could not be appointed ; or if the preſident had authority to appoint the court, the Conſtitution did not determine how many of them there ſhould be upon the bench ; and when this was provided for, by law, the Court could have no form or mode of civil proceſs, without an act of the legiſlature. The Congreſs, in their laws eſtabliſhing a judiciary ſyſtem, provide a method of ſervice for their precepts, but have made no proviſion for the ſervice upon a ſtate. I conclude, that if they had conceived ſuch ſervice conſiſtent with the government they were adminiſtering, that they would have not conſidered their ſyſtem as complete without it.

In order to compel a body or an individual to anſwer for a debt upon a legal proceſs, there muſt be a party to complain ; a tribunal to complain to, inveſted with power to decide ; authority to compel the appearance of the party complained againſt, and ſtrength to enforce a compliance with the decree which ſhall be made. Conſiſtently with this idea, the precept or command to anſwer is always made by the ſovereign authority of the civil community, in the name of the government itſelf, or that of its ſupreme executive officer. In the United States, the precept is in the name of the preſident ; in England, in the name of the king ; in the ſtate of Maſſachuſetts, in the name of the commonwealth ; and in others, according to that mode of expreſſion which will beſt

ſhew

ſhew that it proceeds from the ſovereign authority of, and is to be ſupported by the whole community. It would be an aukward buſineſs indeed, to have a precept in the name of the preſident, who is a citizen of Virginia, and a ſervant of the United States, directed to a marſhal, commanding him to attach or ſummon the United States to appear in one of their own courts, before their own ſervants, to make anſwer to a civil ſuit. Who would amerce or puniſh them, if they would not appear; or who ſhould carry a judgment againſt them into execution?

There can be no ſuit againſt a nation, by any practice yet known, or by any principles yet acknowledged in the world. A national debt lays forever, until proviſion is voluntarily made for the payment of it. Perhaps ſome may wiſh that nations may be compelled to do juſtice, as well as individuals, and many may wiſh the courſe of nature and her eſtabliſhed laws may be altered in other matters; but this is to no purpoſe; for the leading principles of all governments are firmly fixed by the laws of nature, and though there appears a variety of forms in the world, yet they all ariſe from a different mode in the application of thoſe principles.

We may as well attempt to erect a temple beneath its own foundations, as to attempt to erect a government with coercive authority over itſelf.

By the Britiſh conſtitution the king never can be ſued; "Hence it is," ſays judge Blackſtone, "that "by law the perſon of the king is ſacred, for no ju-"riſdiction on earth hath power to try him; if any "perſon has a point of property with him, or a juſt "demand againſt the king, he muſt petition him in "chancery, where his chancellor will adminiſter right, "as a matter of grace, though not of compulſion." Puffendorf likewiſe ſays, a ſubject, ſo long as he continues a ſubject, hath no way to oblige a prince to give him his due. Theſe are ſpeaking of a king, in

his individual, private capacity, and upon demands againſt him for his private debts: But the king, or preſident of a ſtate, can never be ſued for the debts due from the ſtate. They owe no greater ſhare of it than any other member of the kingdom or commonwealth; and we all know, that no action can, or ought to be maintained againſt an individual member, for a debt due from the corporation to which he belongs. Every one having a demand againſt a government, which is unliquidated and unfunded, may petition, and muſt wait with patience for the efficacy of that policy and juſtice, which ought to urge every government to do right.

But if the United States cannot be held to anſwer upon a civil ſuit, how then can they become a party? for the Conſtitution has expreſsly provided, that "the "judicial power ſhall extend to every caſe wherein the "United States ſhall be a party." To this I anſwer, that they may become a party plaintiff; by bringing a ſuit, they may become really, though not nominally a party, by defending their tenants and ſervants in ſuits brought againſt them. The king of England may become a party, and daily is one. Each of the United States, before the eſtabliſhment of the general government, could in this way be parties; they could not be ſued, or compelled to anſwer, either by their own, or by any foreign, coercive power.

If then the United States cannot be called to anſwer in a court of law, what is there in the frame of the general government which gives the courts of the Union a coercive power over the ſeveral ſtates?

The ſecond ſection of the third article of the judicial power provides, that "the judicial power ſhall "extend to all controverſies to which the United "States ſhall be a party; and in all caſes to contro-"verſies between two or more ſtates, between a ſtate "and a citizen of another ſtate, between citizens of "different ſtates, between citizens of the ſame ſtate "claiming

" claiming lands under grants of different ſtates, and " between a ſtate, or the citizens thereof, and foreign " ſtates, citizens or ſubjects."

If the judicial power ſhall extend to controverſies between two ſtates, how can this authority be exerciſed, unleſs one of them can be called to anſwer the other by civil proceſs? There is more appearance of argument in this, than there is in any other queſtion propoſed by thoſe who are for ſwallowing up all authority in that ceded to the general government. If there was any thing concluſive in this mode of expreſſion, when duly conſidered, it would become neceſſary to refer to ſome other parts of the ſyſtem under conſideration for an explanation; but I think we need not do this, becauſe the ſame method which would make the United States a party, may call up two ſtates as parties againſt each other. This clauſe, in the Conſtitution of the general government, was intended to eſtabliſh a tribunal for all the ſtates to reſort to, upon a queſtion of territory. Even a corporation cannot be ſued for treſpaſs; but the tenant or ſervant of one ſtate may have ejectment or treſpaſs brought againſt him by another ſtate, or by any perſon holding under the title of it. And thus there would be really a controverſy between two ſtates. The citizen or ſubject of a foreign ſtate or kingdom may have an action brought againſt him by a ſtate; or a foreign ſtate, or its citizen or ſubject, may bring an action againſt a citizen of one of the United States, for a ſuppoſed injury, and the ſtate to which he belongs may become really a party; and therefore, to ſecure juſtice and to preſerve the peace of the Union, it is provided, that ſuch caſe ſhall be tried in the judicial of the United States.

I have ſhewn ſeveral ways in which a ſtate may become a party, without being liable to be ſerved with a civil proceſs, or compelled by the coercive authority of the United States to anſwer upon a civil

ſuit.

ſuit. But there is one other clauſe in this ſection, which deſerves more particular attention. "In all "caſes in which a ſtate ſhall be a party, the ſupreme "court ſhall have original juriſdiction." Nothing is here, or any where elſe, ſaid of the ſupreme judicial court having juriſdiction where the United States ſhall be a party.

We take our ideas of government generally from other nations, and more eſpecially from that with which we have formerly been connected. It is an eſtabliſhed maxim in the Engliſh laws, that the king by his prerogative may bring his ſuit in any court having cognizance of pleas. Upon this idea, it was found to be unneceſſary to make proviſion reſpecting any particular courts having juriſdiction of ſuits where the United States are plaintiffs, becauſe, being a ſovereign power, they can bring their ſuits where they ſhall pleaſe in their own courts. It would have been nonſenſe to have made proviſion for the juriſdiction of cauſes wherein the United States may be defendants, becauſe there never can be an inſtance of that kind; but as no one ſtate is the ſovereign power which conſtitutes, or can control the courts of the United States, there is no one of them which holds the prerogative of bringing its ſuit in which of the courts of that government it ſhall chooſe; and therefore it became neceſſary to make this proviſion, in order to give the ſupreme court original juriſdiction of the ſuits brought by the particular ſtates. In this way ſpeedy juſtice is aſſured to the ſtates, their dignity preſerved and their importance ſupported, upon principles which conſtantly tend to ſtrengthen the Union.

Where either of the ſtates brings a ſuit, it is to be brought immediately in the ſupreme judicial of the Union; and, by a fair and liberal conſtruction of this clauſe, wherever a tenant or ſervant of a ſtate brings an action againſt any one holding under, or acting by the

the command of another ſtate, the action ought to be originated in the ſupreme judicial court of the federal government: and here a ſtate becomes really, though not nominally a defendant; and in ſuch caſe the ſuit will, by the intendment of this part of the Conſtitution, be carried to that court.

If the paragraphs above recited, by having the conſtruction which I have given them, can be fully ſatisfied, and be rendered conſiſtent with the other parts of the ſyſtem they belong to; and if a contrary, or more enlarged conſtruction would render them incompatible with, and derange the whole ſyſtem, and compel us to affix new meanings to the language of it, then I think I may conclude that my conſtruction is right.

A ſovereign can never conſent to become a party before a foreign tribunal; his remedy lies in the ſtrength and power of his own nation. He demands juſtice, and if it is denied him, he appeals to the ſword, and makes repriſals. It would therefore have been arrogance in the people of the United States to have made proviſion for ſuſtaining the ſuit of a foreign power. But to prevent theſe acts of injuſtice to the rights and dignity of a foreign ſovereign, in the perſon of his public miniſter, which might injure the ſtates, they have wiſely provided a tribunal, near the head of the federal power, for puniſhing any wrong or injury done to ſuch characters.

The people of each ſtate have ceded expreſsly, by the parts of the general government under conſideration, and as expreſsly, by giving the power of making peace and war to the United States, all right of demanding juſtice againſt other nations, and againſt each ſtate, as ſeparate, ſovereign powers, and of appealing to the ſword where it ſhall be denied them. Each of them held this right before the eſtabliſhment of this government; but the people have agreed to withdraw their delegated ſovereignty from each ſtate,

and

and have lodged it in the Union, ſo far, in this particular, that they can make no demand upon a foreign ſovereign, or upon each other, but through the medium, and conſonant to the deciſion of the United States. But ſtill, if a ſtate, as a ſtate, ſhall chooſe to violate this compact, how can it, as a ſtate, be puniſhed? This queſtion I have already anſwered, by ſhewing, that although a ſtate cannot be puniſhed for making or continuing a war, yet the individual perſon, who acts under ſuch pretence of authority, may be puniſhed for treaſon, murder, or other crime, according to the facts happening from his procedure. When all the people of a ſtate ſhall unjuſtly arm themſelves againſt the general government, and make uſe of the form of the ſtate government to conduct their enterpriſe, the matter muſt be ſettled, like other rebellions, by the ſword.

Having, as I think, ſhewn that a ſtate, by any fair conſtruction of the judiciary powers under conſideration, cannot be compelled to anſwer on a civil proceſs, I will now attend to the other parts of the Conſtitution, and ſee if, by a juſt conſtruction of them, or according to the nature of governments, the ſeveral ſtates, as ſtates, can be amenable to any civil tribunal, for any crime or miſdemeanor, or coerced by any civil authority whatever.

I have already anticipated my argument under this head, by obſerving that no ſuit could be produced againſt a nation, or againſt the ſupreme magiſtrate of it. But we have a kind of government, including that of the United States as a nation, and thoſe of the ſeveral ſtates as ſeparate ſovereignties, which is perhaps without example in the world. In ſome countries all the political ſovereignty, taken from, or delegated by the people, is in one man, forming what we call an abſolute monarchy; in others, in one body of men, forming an ariſtocracy, abſolute in its nature; in others it is delegated by parcels to ſeveral men, or bodies

bodies of men, the legiſlative power to one, and the executive authority to another; but in all theſe the lines of the powers held are marked by the boundaries of the territory over which they are to be exerciſed, or by the natural diviſion of the legiſlative from the executive authority.

In our country we have two ſovereign powers, independent of each other in their political capacities, exerciſing legiſlative, judicial and executive authority over the ſame perſons, at the ſame time, and in the ſame place. The lines which divide and regulate the exerciſe of thoſe ſovereign powers are marked and deſcribed by the Conſtitution of Government of the United States. As individuals retain all the powers, under a free government, which are not ſurrendered by the form of their conſtitution, ſo all the powers, which exiſted in the governments of the ſeveral ſtates before the eſtabliſhment of the general government, are yet held by them, excepting thoſe which the people have taken back, and ſurrendered by that ſyſtem.

The conſtitution of the general government, as to things within its reach, is the ſupreme law of the land; and all the conſtitutions and laws under them, ſo far as they militate with it, are void; but thoſe laws which ſhall be made by Congreſs, and which are repugnant to the rights and powers reſerved for the ſtate governments, are equally void. The only objection to this is, that there may be a difficulty in two ſovereign powers exerciſing authority over one man, at the ſame time and place; and that where two independent powers are thus acting, there may be a controverſy between them, without any acknowledged tribunal to decide upon it. But this is an inconvenience which the people have preferred to the inefficient ſtate the nation has been in, and which they will ſtill prefer to that of one conſolidated government over the whole union.

A ſovereign ſtate cannot be coerced by its own authority in any other ſenſe than a man can be commanded by himſelf; for the ſame authority which obliges, can at all times releaſe from the obligation; and as an individual may reſolve, and reſcind the reſolutions, ſo a civil community may determine, and recede from the determination. It may command, but it may at the ſame moment excuſe from obedience; which ſhews that the obedience of a ſtate to its own coercive precept is no more than an uncontroled, voluntary aſſent to a meaſure.

Before the revolution, the provinces and colonies in America had neither powers of making peace nor proclaiming war, nor of regulating commerce; ſome of them had not the power of appointing their own chief magiſtrate; and the prerogative of the king extended to them all; yet they held certain ſovereign powers, which put them above the coercive authority of each other, as well as above that of Great-Britain. There were no pretenſions of their being liable to be ſued. Allegiance was due from their members, not to them, but to the king; and offences were ſuppoſed to be committed againſt him, but not againſt them. Yet as they held ſome uncontrolable, ſovereign powers, they were by no means liable to civil coercion.

To ſuppoſe a man can uncontrolably command another, and diſpoſe of him as he pleaſes by general edicts, when he is liable to be controled, and to be diſpoſed of himſelf, will not do. If the United States have a right to iſſue a coercive precept againſt the ſeveral ſtates, they have a right to compel obedience by puniſhment. A corporation cannot be corporally puniſhed, or be impriſoned, but it may be diſfranchiſed, and loſe its privileges for a miſuſure of them. This is called a civil death. But this proceſs of puniſhment carries with it the full and complete idea of ſubordination to a ſuperiour power, which is quite inconſiſtent with every idea of any kind of ſovereignty.

If

If one of the ſtates, as a ſtate, ſhall refuſe obedience to the precept of the United States, there can be no way to puniſh it but by a diſfranchiſement, or an annihilation of its corporate powers. All right of diſfranchiſement goes on this idea only, that the corporation derives all its privileges from the ſovereign power which protects it, and that they can be forfeited by, and taken away for a miſuſure. The ſeveral ſtates exiſted as ſovereign ſtates before the general government was formed; they hold nothing under it, but derive their authority immediately from the ſame ſource with that; no one drop of the ſtream of power, iſſuing from the people to them, commixes itſelf with that of the general government in its courſe.

If the government of the United States, as the executors of the ſovereign power of all the ſtates, can compel each of the ſtates to anſwer in their courts, then each of the ſtates can, by their civil proceſs, as executors of the ſovereignty of its citizens, compel the United States to anſwer in their court, for the ſovereignty of the governments are equal to that of the United States, as to the ſeveral objects and ſubjects of them: Neither of them is anſwerable to, or under the ſubordination of another. The nature of a delegated ſovereignty is the ſame at all times, and in all places; but that of the United States is more extenſive than that of a particular ſtate, and has more force to ſupport and execute it.

The United States may as well attempt to coerce, by their authority, the province of Nova-Scotia as either of the ſtates in the Union. Perhaps this idea may hurt the feelings or wound the pride of ſome very honeſt men, whoſe zeal for the honour of the United States does not ariſe ſo much from reflection and reaſoning as it ought. We are very apt to eſteem a government in proportion as we approve its adminiſtration; and we are ready to concede the moſt ample powers, and to make the moſt unreſerved ſurren-

ders to a ſtate, when we have a full confidence in the principal officers of it; but theſe inexcuſable feelings have deſtroyed the liberties of many countries. If the men we eſteem, and with whom we are ready to depoſit our all, were immortal and unchangeable, we might have ſome excuſe for ſuch unlimited ſubmiſſion; but as we know there muſt be a ſucceſſion of rulers, and do not know who they will be, it is neither wiſe nor prudent to give that authority to the beſt of men, which might injure us if it was given to the worſt.

Each of the ſeveral ſtates can undoubtedly try, condemn and execute any perſon for treaſon, murder, or for any felony committed within it, unleſs it be for ſuch cauſe as the people have given the general government the ſole power of puniſhing. And it would be a very barbarous and unrefined idea of government, that a body politic or ſtate ſhould have an uncontrolable right over life and property, and yet that ſame ſtate itſelf be amenable to another power for its conduct. A ſtate inveſted with uncontrolable legiſlative authority, with the abſolute power of conſtituting all its officers, and thoſe officers amenable to, and removeable by no power beſides that of the ſtate which appoints them, and yet that very ſtate to be ſubordinate to, and the ſubject of the coercive precepts of another ſtate or government, would be an heterogeneous idea of government that no well taught civilian would hold.

I am not a ſtranger to the hacknied objection of the *imperium in imperio*—a government within a government. This idea, when properly applied, has, no doubt, great force in it.

Where a monarch claims dominion, as his inheritance, over the people in all things, to allow any ſhare of power in another, which is not derived from him, is againſt the fundamental principles of ſuch a government; and theſe powers muſt neceſſarily be oppoſed

oppoſed to each other, without any arbiter to decide between them. But, in our caſe, ſhould there ever be an uneaſineſs between the general government and thoſe of the ſtates, the people who formed, and who ſupport both, will, in the ſame way they formed them, by a convention of their delegates, eſtabliſh the boundaries, and raiſe up the old monuments.

There is no principle in civil government, which will admit of a judicial, without a legiſlative power. The judicial power is only intended to apply, and to carry into execution the ordinances of the legiſlative authority. There may be a judicial and legiſlative authority veſted in the ſame man, or body of men; but there can be no extenſion of a judicial power to perſons or things without a legiſlative authority to ſupport, direct and limit it. If this poſition is juſt, and I believe that no one will controvert it, then it will clearly follow, that if the judicial authority of the United States can extend to the ſeveral ſtates, as ſtates, the ſeveral ſtates, as ſtates, are under the legiſlative authority of the United States. The Conſtitution provides, that "the judicial power ſhall be veſted "in one ſupreme court," but the judicial power of a ſtate can only decide upon, and execute the laws made or adopted by that ſtate.

If the ſeveral ſtates are under the legiſlative and judicial authority of the United States, they muſt be alſo under the executive authority of the ſame. And to ſuppoſe the government, as a government or ſtate, ſubordinate to the United States, and yet to ſuppoſe that the individuals who compoſe the ſtate, or any part of their property, are, in any inſtance, independent of the general government, will by no means do. If the authority of the United States extends to the governments of the particular ſtates, then the republican form of government, guarantied by the United States, means nothing more than a form of police for a corporation; and the appellation of legiſlative and executive

executive powers of the ſeveral ſtates means nothing more than the powers of making and executing by-laws, provided they are neither made nor executed againſt the ſovereign pleaſure of the government of the United States.

That this is clearly our ſituation, provided the judicial power of the United States extends to the ſeveral ſtates, as ſtates, I believe will not be ſeriouſly contended. If this is our ſituation under the general government, then there is not, as the Convention expreſſed it, a conſolidation of our Union, but a conſolidation of our governments, and one great and general ſyſtem of government embraces all the territory, from the ſouth line of Georgia to the north line of Maſſachuſetts, conſidering and holding thoſe which were lately ſovereign ſtates as diſtricts under the national ſubordination of, and amenable to that government.

To thoſe who have been frighted by the late inſurrection in Maſſachuſetts, or have complained of injuſtice in Connecticut, or New-Hampſhire, or have been defrauded with paper money in Rhode-Iſland, as well as to thoſe who want offices, preferments, and the public bread, this idea will be pleaſing; but the ſober politician, the man who loves his country, and delights in the freedom, happineſs and ſecurity of the people, will examine the matter calmly and with integrity, before he gives his voice in favour of the meaſure.

I am well aſſured, that there are many who will ſay, Suppoſe we are but one government, to all intents and purpoſes, why is it not right? And if we are not now in that ſituation, why ſhould we not be in it? There is ſometimes a dementia in the mind of ſome men, as to public matters, which cannot be accounted for. The moſt agreeable circumſtances, at ſome times, will not give contentment, or produce ſatisfaction to the human race. In temperate climates,

mates, ſome of the people are ardently longing for ſtorms, and the extremes of weather; and ſome, in the moſt happy political ſituation, for a change of government.

But if the government of the United States has the ſuperintendency of all the ſtates, in all the legiſlative, judicial and executive buſineſs neceſſary to the government, ſecurity and well-being of all the people, and of all their property, there is not energy enough in a republican government to do it: And upon this idea, thoſe few men who are wiſhing for a monarchy and a ſet of nobility, to walk on the heads of the people, are right. The territory is too large, and the people are already, with their different modes of education, their various habits of life, and multifarious tenures of property, too numerous to form one republic. And if the officers which are to execute the Conſtitution, and the laws made under it, are to have all this buſineſs on their hands, and all this authority committed to them, their offices will be too important to bear an election: Controverſies and bloodſhed will probably ſoon take place, and there will be at firſt a neceſſity of having the elections leſs frequent, and then of leaving the offices hereditary.

When the Roman ſenate had, by blood and ſlaughter, extended the wings of their republic over numerous nations, for no other cauſe than that the people who compoſed them looked upon the Roman nation, very juſtly, as a gang of murderers, thieves and robbers, they were unable to continue the efficacy of government, in the form of a republic; and were frequently, after finding their own ſwords too ſhort, obliged to eſtabliſh a temporary dictator, to act upon the people with a military force, which eventually introduced an emperor, and deſtroyed the liberty of the people forever. That nation, very ſoon, begun to enjoy a ſtate of ſpendid vaſſalage, in preference to that ſtate of freedom, which is capable of exhibiting human

human nature in the moſt dignified point of view, and of rendering man an happy and honourable being.

But it may be ſaid, that thoſe nations were barbarous, and quite incapable of ſupporting ſuch a government as the people in this enlightened age of the world can maintain.

This may be true ; but then, if our virtues are ſo great, why ſhall we not be contented to continue an aſſemblage of republics, united by compact for our common defence and intereſt, each one holding ſovereign powers as to other matters.

The danger of inveſting men or bodies with too great powers is not ſoon diſcovered. The nations that have gone before us, when they have been fatigued with war or commotion, and wiſhed for eaſe, have been willing to ſubmit to any one who would relieve them from their burthens, and guide them to the wiſhed-for repoſe. There are very few inſtances of new-acquired powers being ſoon exerciſed to the full extent of their conſtitution. The man, or the men in power, have generally concealed their weapons under complacency, until thoſe who have been in the habits of watchfulneſs are either called off the ſtage, or purchaſed to their devotion.

If Congreſs and their officers ſhould ever claim this right of ſuperintendency and legiſlation over the ſeveral ſtates, they will never be led to exerciſe it until there ſhall be a pretence that it has become neceſſary to the ſupport of the general government. This neceſſity may be made to ariſe in many ways, by war or treaties, by the multiplicity of offices, and the high compenſations which may be given them. Nothing of this kind can probably happen in the preſent age ; but we have fought for the liberty of our poſterity.

If the ſeveral governments are ſubordinate to that of the United States, and they are all one government, there is not a repreſentation in the moſt popu-

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lar branch of the legiſlature ſufficient to preſerve the freedom of the people. It may be ſaid, that the preſident, vice-preſident and ſenate are the repreſentatives of the people, and that therefore the apprehenſion of danger is altogether chimerical; but that is no anſwer to the difficulty; for if it would prove any thing, it would prove, that there is no need of any more branches in the government than the preſident, or the preſident and the ſenate. If a houſe of repreſentatives, made up of one member to thirty thouſand ſouls, could poſſeſs wiſdom enough to make laws for the people, yet when they are biennially choſen, and hid in the great city of Philadelphia, in the noiſe, buſtle and amuſements of high life, or ſeated on the banks of the Potowmac, they will have very little feeling for, or acquaintance with the circumſtances of their remote conſtituents.

While the importance of the ſeveral ſtate governments is ſupported, they will be good advocates for the people, and powerful defenders of their rights. The people, under this idea, will cheerfully acquieſce in the meaſures of the general government, upon points within its control, becauſe they will be ſatisfied that their repreſentatives, in their own particular government, will be oppoſed to every meaſure of Congreſs which exceeds the authority given in the Conſtitution; but take this away from them, by reducing the particular governments to the ſtandard of mere corporations, and diſtruſt, jealouſies and diviſions will ſucceed. At preſent, if one of the officers of the general government ſhall be guilty of oppreſſing one of the ſmalleſt of the people, it will be conſidered as an infringement on the rights of the ſtate where the injury is done, and the government there will interpoſe, and demand juſtice againſt the offender. Take this barrier away, and we have all the inſolence of office to bear, becauſe thoſe who are far diſtant from the ſeat of power had better bear oppreſſion, than to go

go with witneſſes, and there to ſuffer the delays incident to a crouded court.

The legiſlative principle in government may be ſaid to be like the ſilent productive power of the earth. Every public happineſs muſt ſpring from that; but the moſt operative and obvious principle is the executive authority. This principle ought therefore to be armed by the legiſlature with every thing neceſſary to a vigorous and energetic operation. In the northern ſtates the legiſlatures go too much into the judicial and executive parts of civil government. This deſtroys the obligations ariſing from reſponſibility in the officers of the ſtate, for no one is reſponſible for the doings of a legiſlature; and the legiſlature, as a body, are above puniſhment. The only means to eſtabliſh an efficient mode of adminiſtration is by dividing the governmental buſineſs into neceſſary departments, to give thoſe departments the moſt ample powers to perform their duties, and to hold them reſponſible for their conduct. The government, in that way, would be conducted by general rules and laws, and the citizens may be able from them to determine which is right. It is true, that theſe general laws may at ſome times not be congenial to the particular intereſt of each individual of the community. If this is an objection, the ſame may be made againſt the ſeaſons of the year, and the changes of the weather; it ſometimes rains, and ſometimes ſhines, to the injury of one, and to the advantage of others. The general laws of nature cannot operate alike on all; but ſtill a general ſyſtem is beſt for all; but there can be no general ſyſtem where the legiſlative concerns with judicial or executive matters. The buſineſs of the legiſlative is to give authority to the judicial and executive officers to act, and to provide the means of compelling them to render an account of their conduct. This would ſave a vaſt expenſe, and render the government reſpectable.

In

In the governments of the particular ſtates the executive power ought to be enabled to redreſs, immediately, every wrong to foreigners; and civil juſtice ought to be adminiſtered promptly to every foreigner and to every citizen. It would be the beſt policy for the Americans to have ſuch tribunals of juſtice, and ſuch executive ſyſtems, in each ſtate, as well as in the government of the United States, that the people, who have a right to demand juſtice, may be inſtantly and ſatisfactorily attended to.

While the governments of the particular ſtates are thus providing for the redreſs of wrongs, and giving remedies for private injuries, they ought to ſupport their own characters for juſtice and integrity. They ought to be prompt and punctual in the payment of their debts, or in funding them, ſo that their creditors can avail themſelves, at proper periods, of the accruing intereſt. Theſe meaſures will ſupport their importance in the eye of the citizens, eſtabliſh their credit and reſpectability, and aſſure the people of the continuance of freedom and happineſs under them.

Where there is but one ſea-port to a country, that place becomes numerous, opulent, powerful and haughty, in proportion as the country increaſes in wealth and numbers; but where there are divers ſeats of commerce in a country, a balance is in a great meaſure preſerved, to the great equality and advantage of all. It is ſo with a great, rich and popular government. Where all the power is veſted in one body of men, and all the ſubordinate ſtreams of magiſtracy flow from that, they will become haughty, imperious and tyrannical; their pride will be too great for a moderate government, and their juſtly founded jealouſy will urge them to a military force to ſupport their inſolence, while the conſciouſneſs of their oppreſſion will compel them to find other means, beſide that of frequent elections, for their continuance in office.

Under all these considerations, and many more that might, with the same propriety, be urged, it will be clearly for the interest and happiness of United America to support an assemblage of republics, as separate, sovereign states, united in one government for the purposes only of proclaiming war and making peace, entering into treaties and regulating commerce, and maintaining justice between them. This is a new experiment in the world; but unless it can be supported, the only alternatives are a monarchy, with a military force at its heels, or a final separation of the states into two or more commonwealths.

It is observed by some great men, that it is of no consequence how many states are made in the Union, that there can be only one representative to each thirty thousand inhabitants, and therefore the number of states is of no consequence.

I have attended to this idea very closely, and am clearly of opinion that it is erroneous.

The people have erected governments as the depositsof power; where there are two separate, independent governments, acting upon the same subject, at the same time, and in the same place, it is very difficult to keep up the original line of separation between their powers. Public opinion will be the means of taking from the one, and giving to the other. In that place where the people depositt their power, they will, if they are happy under their government, bestow their confidence; and a free government will be splendid and effective, or contemptible and weak, in proportion as it possesses the respect and confidence of its subjects. Where a government is powerful and opulent, it will have the offices of it always filled with men of the greatest abilities. As to questions between individuals, there are but very few officers who will not act with integrity; and therefore such a government will have the confidence of the people, until this confidence, this opulence and power,

power, when they ariſe to an extreme, will overthrow the foundations of the republic, and deſtroy the freedom of the ſtate.

If the ſeveral ſtates ſhould ſubmit to be divided into ſmall ſtates, they will loſe their reſpectability and influence in the general government, and be very ſubject to feuds, contentions and animoſities among themſelves, and thereby loſe that union of ſentiment which is neceſſary to the preſervation of their powers and exiſtence. Beſides this, ſmall ſtates are eaſily wrought upon and affected; they are ſubject to the diſagreeable operations of party ſpirit, and their elections are very often corruptly influenced. The officers of the general government, in a few years, might have it in their power to purchaſe them out of their liberties. Extremes ought to be avoided each way. Rhode-Iſland is evidently too ſmall for a ſtate, and Maſſachuſetts will ſoon become unwieldy, and claim a diviſion.

Governments are frequently injured by conſulting matters of mere convenience, to ſave expenſe and trouble.

The firſt object of a government is its own exiſtence, and the next, the ſafety and convenience of its members. Whatever is inconſiſtent with the government's own exiſtence, is to be ſhunned as a deadly poiſon.

There is a propoſal in Congreſs* of conſolidating the judicial powers of the United States with thoſe of the ſtates ſeparate; but this will moſt certainly deſtroy the idea of a ſeparate exiſtence of the ſtates, and form the ſtrongeſt conſolidation of the whole. The judicial power is, as has been obſerved, the moſt operative and viſible principle in government; without it, the legiſlative power could not effect any thing; and without it, the executive power would be idle.

The judicial officers of the United States could not be amenable to that ſupreme, and to another ſupreme

* Mr. Benſon's motion, referred to next ſeſſion.

preme authority at the ſame time : And the judicial officers of the ſeveral ſtates could not be amenable to the ſupreme power of their own ſtate, and to that of the United States. Theſe officers muſt be appointed by one or the other of the governments, and not by both.

If the ſeveral ſtates ſhould ceaſe to have power to appoint a ſupreme judicial, they would ceaſe to be ſtates. To have the power to appoint, and not the power to remove or puniſh, would be a new kind of power. If the conſolidation of the judiciary power ſhould thus take place, the great government will ſwallow up the leſſer ones, as a large drop of water drinks up ſmall ones within its attractive force.

There is a great inconveniency in having ſo many courts to attend upon ; but we are trying a new experiment to preſerve our civil freedom, and we have no right to expect any enjoyment without ſome inconveniences ; it is our duty to bear theſe with patience, and to ſuffer even the greateſt hardſhips, rather than to give up the idea of maintaining ſeparate republics.

There is a kind of republican pride, that muſt be cheriſhed in our minds, if we mean to ſupport a free government. While we are converſant with the people of other nations, and are viſited by men who hold by inheritance, or by indefeaſible grant, high offices, to which large emoluments are annexed, we are not to feel ourſelves as inferior to them, becauſe we are dependent upon our fellow-citizens for as great authorities as theſe men hold over, and independent of their fellow ſlaves. But we are to value and pride ourſelves in our rank, becauſe it is ſupported by the uncorrupted breath of a free and enlightened people. A judge, or a ruler, appointed by a royal-born ſovereign, is eſteemed, and why ? becauſe the man, who holds the people in ſlavery, calls upon him for his aid in riveting the ſhackles. Some

men,

men, who boaſt the confidence of their countrymen, and are called to the places of the higheſt truſt and importance, complain that there is no gratitude in a republic. Their complaints ariſe from a compariſon of their own ſervices and merit with that of the ſervants of monarchs, which they obſerve to be highly rewarded. But this mode of eſtimation is wrong; all compenſation for ſervices is comparative, and ten thouſand Engliſh guineas a year is ſmall in a country where many men, from their private fortunes, are enabled to ſpend forty thouſand annually. To determine whether our ſervices are well rewarded, we ought not to compare our compenſations with thoſe of the officers of other countries, but with the reſources of our own national finances.

Where there are mountains, there muſt be vallies in proportion. Governments cannot create, but may diſpoſe of property. The people muſt grow poor in proportion as their rulers grow rich. And as large penſions, ſalaries and compenſations cannot be raiſed upon an equal and free government, without oppreſſing the people, and changing its nature, by eſtabliſhing an inequality of property, the wealth of our rulers ought to be the confidence which the people place in them; and every man is to take his rank according as he acquires this confidence. But the confidence ſpoken of is ſometimes given to very unworthy men, which tarniſhes its glory and leſſens its conſequence. This is true; but are not riches as frequently beſtowed upon fools? and do not blockheads inherit thrones and ſceptres? and are not offices inherited by, and granted to men in monarchical governments, who are quite unfit to exerciſe them?

Men, in a ſtate of civil ſociety, have no juſt right to expect, under any form of government, to be freed from public or private calamities. Even in a good government the paſſions of men will ſometimes lead them into meaſures very injurious to the public tranquillity.

quillity. As men in ſound health are more liable to inflammatory diſorders than thoſe of weak and puny habits of body, ſo free governments are more liable to contentions; but a man would be loth to change a good, ſound conſtitution for a weak and complaining one.

Men, in all governments where they dare ſpeak or think, may act wrong, with reſpect to the public good. A ſtate of civil government was never thought of as a cure for the irregularities of the human heart, but as a means to regulate and control them. We therefore ought not to wiſh a change in our government, becauſe things do not go well, according to our wiſhes and opinion. It ought to be remembered, that in mere matters of judgment we are all upon a level.

We frequently find men who like a free government for themſelves, and think they are very capable of enjoying it; but they believe their neighbours are not; and they talk of the people as a body below them. Theſe men are tyrants in their hearts; and hate a free ſtate of government for the ſame reaſon that good men love it, becauſe it renders the great body of the people happy and ſecure.

There is a natural wiſh in every man to feel independent, and there are charms in ſtars and garters. To introduce a king would be the introduction of a nobility; for, as Vattel ſays, if there is a king, there muſt be a nobility: and many of us, in eſtimating our own merit, as patriots, may feel convinced, that nothing leſs than being ennobled, or by ſome means or other raiſed to diſtinctions above our fellow citizens, and independent of them, can compenſate us for our ſervices in their cauſe. But the fact is, that ſhould a ſyſtem of this kind take place we have done nothing for their advantage. We have only lifted them up, to taſte the delightful fruits of the tree of liberty; but we have extirpated the tree, and taken its ſoil to reward our ſervices.

There

There is a kind of independence which Americans will purſue with their utmoſt exertions, that is, an independence of ſentiment, a firmneſs in doing right, and a reſolution to preſerve the freedom and dignity of men, as men, againſt the frowns and intrigues of all who would conſider one man as the property of another, and eſtabliſh ſyſtems, either in church or ſtate, incompatible with that freedom which exhibits the human race in its faireſt point of view, and treats man as a rational, honourable and reſpectable being.

FINIS.